

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THEMIS CAPITAL and	:	
DES MOINES INVESTMENTS LTD.,	:	No. 09 Civ. 1652 (PAE)
	:	
Plaintiffs,	:	
v.	:	
DEMOCRATIC REPUBLIC OF CONGO	:	
and CENTRAL BANK OF THE	:	
DEMOCRATIC REPUBLIC OF THE	:	
CONGO,	:	
	:	
Defendants.	:	
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DECLARATION OF NADY MAYIFUILA

Pursuant to 28 U.S.C. section 1746, Nady Mayifuila declares as follows:

1. I am admitted to practice before this Court and an associate at Emery Mukendi Wafwana & Associates, P.C. ("EMW"), counsel to defendants, the Democratic Republic of Congo (the "DRC") and the Central Bank of the Democratic Republic the Congo (the "Central Bank" and together with the DRC, the "Defendants").

2. EMW was retained by Defendants and they entered into a retainer agreement, which I will provide to the Court if requested. To the extent the Court wishes to review such agreement, EMW respectfully requests that it be permitted to supply the letter to the Court in camera review or otherwise file the document under seal.

3. Pursuant to the terms of the agreement, Defendants' representation by EMW would be done upon payment by them of an advance retainer. Defendants further agreed to pay any additional retainer required in order to cover EMW's legal fees and expenses

during their representation by EMW. Additionally, Defendants expressly agreed to be severally and jointly responsible for the payment of EMW's legal fees and expenses.

4. On January 6, 2011, in accordance with the retainer agreement with Defendants, EMW retained the law firm of Cleary Gottlieb Steen & Hamilton LLP ("Cleary Gottlieb"), in order to file an objection to the Magistrate's Report and Recommendation, dated November 1st, 2010, and act as co-counsel to Defendants thereafter, following payment by Defendants of a retainer to Cleary Gottlieb.

5. Although partial payment of EMW's legal fees was made by the Central Bank, the DRC has promised but failed to make any payment; and the Central Bank has refused to pay the balance of the retainer due, despite our several and continuous demands, for almost 2 years.

6. Defendants also failed to make payment of the retainer requested by Cleary Gottlieb. On June 15, 2011, Cleary Gottlieb filed a motion for leave to withdraw as counsel to Defendants.

7. Furthermore, although this firm has met and worked with some representatives of Defendants, there has been no direct communication with the DRC's Minister of Justice, who is the official representative of the DRC in legal actions against it. Our requests to meet and discuss directly with her about the issues at stake in this action, as well as our representation of Defendants, have been unsuccessful for reasons unknown to us. Communication with the DRC has become increasingly difficult; and a one way channel, from EMW to the DRC, with scarce or, generally, no response at all from the DRC.

8. In addition, certain representatives of Defendants have recently informed EMW, that Defendants were finalizing the engagement of a different law firm to represent them

in this procedure and that payment of such firm's retainer was already made. Our request for official confirmation of such information has remained unanswered.

9. On September 30, 2012, EMW has informed Defendants of its intention to file a motion for leave to withdraw as counsel to Defendants, if payment of the balance of its legal fees and costs was not made promptly. EMW systematically reiterated its intention to file a motion to withdraw, in all its official reports to Defendants since September 2012. On December 10, 2012, a letter was sent to Defendants to inform them that EMW would be formally filing a motion to withdraw as their counsel during the course of the week of December 10, 2012.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 12, 2012
New York, New York

/s/ Nady Mayifuila

Nady Mayifuila